



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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Andrew Harris Werbrock, Esq.
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201 Dolores Ave.
San Leandro, CA 94577

MAY 26 2017

RE: MURs 7079 and 7121
Eggman for Congress, *et al.*

Dear Messrs. Willis and Werbrock:

On June 13, 2016, the Federal Election Commission ("Commission") notified your clients, Michael Eggman and Eggman for Congress and Jay Petterson in his official capacity as treasurer ("Committee"), of the complaint in MUR 7079, which alleged violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On August 15, 2016, the Commission notified Michael Eggman and the Committee of the complaint in MUR 7121, which also alleged violations of certain sections of the Act.

On May 11, 2017, the Commission found, on the basis of the information in the complaints, and information provided by your clients, that there is no reason to believe that Michael Eggman violated 52 U.S.C. §§ 30122 or 11 C.F.R. § 110.4(b). On that same date, the Commission found no reason to believe that Eggman for Congress and Jay Petterson in his official and individual capacity as treasurer violated 52 U.S.C. §§ 30102(e)(3)(B), 30104, 30116(f), or 30122 or 11 C.F.R. § 110.4(b). Accordingly, the Commission closed its files in these matters.

Documents related to these cases will be placed on the public record within 30 days. See Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). The Factual and Legal Analysis, which more fully explains the Commission's findings, are enclosed.

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If you have any questions, please contact Marianne Abely, the attorney assigned to these matters, at (202) 694-1650.

Sincerely,

Wink Allen

Mark Allen
Assistant General Counsel

Enclosures
Factual and Legal Analyses (2)

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1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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5 RESPONDENTS: Eggman for Congress and Jay Petterson MUR 7121
6 in his official capacity as treasurer
7 Michael Eggman
8 Ami Bera for Congress and Jennifer May
9 in her official capacity as treasurer
10 Babulal Bera
11

12 **I. INTRODUCTION**

13 This matter was generated by a Complaint filed with the Federal Election Commission
14 (the "Commission") by The Foundation for Accountability and Civic Trust, alleging violations
15 of the Federal Election Campaign Act, as amended (the "Act"), by Eggman for Congress and Jay
16 Petterson in his official capacity as treasurer, Ami Bera for Congress and Jennifer May in her
17 official capacity as treasurer, and Babulal Bera.

18 **II. FACTUAL AND LEGAL ANALYSIS**

19 **A. Facts**

20 The Complainant alleges that Respondents violated the Act and Commission regulations
21 by participating in schemes to make contributions in the names of others for the purpose of
22 evading the Act's individual contribution limits.¹ The Complaint asserts that, in June 2013,
23 congressional candidate Michael Eggman and his principal campaign committee, Eggman for
24 Congress, participated in a "straw donor scheme" involving the reimbursement of one
25 contribution by Babulal Bera.²

26 According to the Complaint, candidate Michael Eggman knowingly participated in this
27 scheme with the Bera family and the Bera Committee to assist Babulal Bera to evade the Act's

¹ MUR 7121, Compl. at 1-2.

² *Id.* at 1-3.

1 individual contribution limits.³ The Complaint states that, in June 2013, Michael Eggman
2 directed Eggman for Congress to make a \$1,000 contribution to the Bera Committee and ten
3 days later, Babulal Bera contributed \$1,000 to Eggman for Congress.⁴ Based on the close timing
4 between the two contributions and the fact that Eggman for Congress never contributed to
5 another candidate committee, the Complainant contends that the Respondents entered into an
6 agreement to have Eggman for Congress' contribution to the Bera Committee reimbursed by
7 Babulal Bera.⁵ The Complaint further alleges that Eggman and Eggman for Congress knowingly
8 accepted an illegal reimbursed contribution, and consequently filed inaccurate disclosure reports
9 with the Commission.⁶

10 The Respondents deny the allegations, asserting that the Complaint fails to present any
11 facts demonstrating that they were involved in an unlawful scheme involving the reimbursement
12 of contributions and that the Commission has previously determined that the donor activity as
13 described in the Complaint is permissible.⁷

³ MUR 7121, Compl. at 2-4. The Complaint also references Babulal Bera's 2016 conviction for reimbursing federal contributions and asserts that Eggman and his campaign committee, Eggman for Congress, "were integral" in that "illegal straw donor scheme." *Id.* at 1. Babulal Bera pleaded guilty to violating 52 U.S.C. §§ 30116(a)(1)(A) and 30122 by reimbursing over 130 contributions made to the Bera Committee using personal and company funds and was sentenced to serve a year and a day in prison. *See* Judgment, *United States v. Babulal Bera*, No. 2:16-cr-00097 (E.D. Cal. Aug. 18, 2016); *see also* Criminal Information, *United States v. Babulal Bera*, Crim. No. 5-16-0097 (E.D. Cal. filed May 9, 2016); Plea Agreement, Ex. A, Factual Basis for Plea, *United States v. Babulal Bera*, Crim. No. 5-16-0097 (E.D. Cal. filed May 10, 2016). In a separate matter, MUR 7072, which related to the reimbursement scheme at issue in the criminal case, in light of Babulal Bera's sentencing in the criminal matter, his advanced age, and the fact that most of the activity was beyond the statute of limitations, the Commission dismissed the matter and admonished Babulal Bera. *See* Babulal Bera Factual and Legal Analysis, MUR 7072; Commission Certification, MUR 7072 (Babulal Bera, *et al.*) (Dec. 9, 2016). The available information, however, does not indicate that any of the contributions at issue in MUR 7121 were part of the criminal activity at issue in MUR 7072.

⁴ *Id.* at 2-3.

⁵ *Id.* at 1-4.

⁶ *Id.* at 3-4.

⁷ *See* Michael Eggman and Eggman for Congress Joint Resp. at 2, 4-5, Attachment A (M. Eggman Declaration, Oct. 4, 2016); Babulal Bera Resp. at 1-2; Ami Bera and Bera Committee Joint Resp. at 2-3.

B. Analysis

The Act limits how much an individual can contribute to a federal candidate and his or her principal campaign committee.⁸ The Act and Commission regulations provide that no person shall make a contribution in the name of another person or knowingly permit his or her name to be used to effect such a contribution.⁹ In addition, "no person shall . . . knowingly help or assist any person in making a contribution in the name of another."¹⁰ Candidates, their committees, and their agents are also prohibited from knowingly accepting contributions that exceed the Act's limits and contributions made in the name of another.¹¹ Finally, candidate committees are required to file reports of receipts and disbursements in accordance with the Act and Commission regulations.¹²

As argued in the Response, the available information does not support the Complainant's allegations that the contributions identified in this matter constitute contributions in the name of another. The Complaint presents no information that Eggman for Congress did not use its own

⁸ 52 U.S.C. § 30116(a). During the 2014 election cycle, an individual could contribute a maximum of \$2,600 to a candidate per election. The Act permits an authorized committee to contribute up to \$2,000 to the authorized committee of another candidate. 52 U.S.C. § 30102(e)(3)(B).

⁹ 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b)(1)(i), (ii).

¹⁰ See 11 C.F.R. § 110.4(b)(1)(iii).

¹¹ See 52 U.S.C. §§ 30116(f) and 30122; 11 C.F.R. §§ 110.4(b)(1)(iv). Commission regulations also require treasurers of political committees to examine all contributions for evidence of illegality. Should a treasurer determine that a contribution is illegal, including that a contribution was made in the name of another, the treasurer shall refund the contribution to the contributor within 30 days of the date on which the illegality was discovered. 11 C.F.R. § 103.3(b).

¹² See 52 U.S.C. § 30104(a)(2); 11 C.F.R. § 104.14(d) (each treasurer of a political committee shall be responsible for the timely, complete and accurate filing of disclosure reports.)

1 funds to contribute to the Bera Committee or that Babulal Bera's contribution to Eggman for
2 Congress was not made with his personal funds.¹³

3 Accordingly, the Commission finds no reason to believe that Michael Eggman violated
4 52 U.S.C. §§ 30122 or 11 C.F.R. § 110.4(b); Eggman for Congress and Jay Pettersen in his
5 official or individual capacity as treasurer violated 52 U.S.C. §§ 30102(e)(3)(B) or 30104(b) or
6 30116(f), or 30122, or 11 C.F.R. § 110.4(b); Ami Bera for Congress and Jennifer May in her
7 official capacity as treasurer violated 52 U.S.C. §§ 30116(f) or 30122, or 11 C.F.R. § 110.4(b);
8 or that Babulal Bera violated 52 U.S.C. §§ 30116(a) or 30122, or 11 C.F.R. § 110.4(b).

¹³ Accordingly, the available information does not indicate any reporting violations on the part of Eggman for Congress or its treasurer in his official or individual capacity.